
UTAH LABOR COMMISSION

LARRY LAKE,

Petitioner,

vs.

**EMPLOY/EASE and WORKERS
COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-0557

Larry Lake asks the Utah Labor Commission to review Administrative Law Judge Luke's dismissal of Mr. Lake's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Lake claims workers' compensation benefits from Employ/Ease and its insurance carrier, Workers Compensation Fund, (referred to jointly as "Employ/Ease" hereafter) for a right-shoulder injury allegedly caused by a work accident on October 28, 2005. The parties waived their right to an evidentiary hearing, submitted stipulated facts, and requested that Judge Luke appoint a medical panel to consider the medical aspects of Mr. Lake's claim. Based on the panel's report, Judge Luke concluded that Mr. Lake's work accident was not the medical cause of his right-shoulder injury and denied Mr. Lake's claim.

In requesting Commission review of Judge Luke's decision, Mr. Lake contends that the medical panel did not confine itself to medical questions, but improperly addressed legal issues that were the province of Judge Luke. Mr. Lake also argues that the medical panel was biased and that the panel should have clarified certain aspects of the medical record.

FINDINGS OF FACT

The parties' stipulated facts can be summarized as follows. Mr. Lake was working for Employ/Ease on October 28, 2005, when a 7-foot ladder on which he was standing buckled, causing him to fall and land on his right shoulder. Over the next several months, while Mr. Lake received medical attention for left-shoulder problems, he did not complain of any right-shoulder problems. It was not until March 1, 2006, after Mr. Lake was terminated from employment by Employ/Ease, that he complained of a right-shoulder injury.

ORDER AFFIRMING ALJ'S DECISION
LARRY LAKE
PAGE 2 OF 3

Because the parties' respective physicians disagreed as to the medical cause of Mr. Lake's right-shoulder injury, Judge Luke referred the medical aspects of Mr. Lake's claim to an impartial panel of medical experts. For the reasons discussed below, the Commission adopts the panel's conclusion that Mr. Lake's work accident is not the probable medical cause of his injury.

DISCUSSION AND CONCLUSION OF LAW

The Utah Workers' Compensation Act provides medical and disability benefits to individuals injured in work-related accidents. In order to qualify for these benefits, the injured worker must prove, among other things, that the work accident was the medical cause of the injury.

In this case, physicians have offered differing opinions on the question of whether Mr. Lake's work accident was the medical cause of his right-shoulder injury. The Commission finds the medical panel's opinion to be persuasive. The panel was comprised of experts in the fields of orthopedics, neurology and psychiatry who were not affiliated with either party. The panelists had access to all of Mr. Lake's medical records and the opinions of other physicians who had either treated him or reviewed his medical condition. The panel also personally examined Mr. Lake. Based on all this information and the panelists' medical expertise, the panel issued a report that is thorough and well-reasoned. The panel concluded that, although it was possible that the accident caused Mr. Lake's injury, such a medical causal connection was not probable.

The Commission has considered Mr. Lake's objections to the panel's report but finds no merit to them. Specifically, the report fully discussed the basis for the panel's opinions. There is nothing to indicate any bias against Mr. Lake. And finally, the substance of the report shows that the panelists were aware of the differing medical opinions and took those opinions into consideration in reaching the independent opinion that is expressed in the panel report. In summary, the Commission accepts the medical panel's opinion and finds that Mr. Lake has not established that his work accident is the medical cause of his right-shoulder injury. The Commission therefore concurs with Judge Luke's denial of Mr. Lake's claim for benefits.

ORDER

The Commission affirms Judge Luke's decision. It is so ordered.

Dated this 21st day of October, 2008.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

ORDER AFFIRMING ALJ'S DECISION
LARRY LAKE
PAGE 3 OF 3

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.